

David J. Bradley, Clerk

On September 4, 2018, Plaintiff filed its Objections. In its Objections, Plaintiff does not contest the substance of Judge Edison's decision; rather, Plaintiff merely

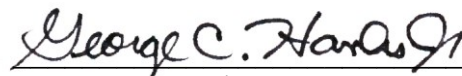
“objects . . . to the extent that [Judge Edison] recommend[ed] dismissal of Crystaphase’s patent infringement claims with prejudice.” Dkt. 47 at 1. In accordance with 28 U.S.C. § 636(b)(1)(C), this Court is required to “make a de novo determination of those portions of the [magistrate judge’s] report or specified proposed findings or recommendations to which objection [has been] made.” After conducting this de novo review, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” *Id.*; *see also* FED. R. CIV. P. 72(b)(3).

The Court has carefully considered the Objections; the Memorandum and Recommendation; the pleadings and summary judgment record; and the briefing and arguments of the parties. The Court **ACCEPTS** Judge Edison’s Memorandum and Recommendation and **ADOPTS** it as the opinion of the Court. It is therefore **ORDERED** that:

- (1) Defendants’ Motion to Dismiss is **GRANTED IN PART** and **DENIED IN PART**;
- (2) Plaintiff’s patent infringement claims (Counts I and II) are **DISMISSED without prejudice**; and
- (3) Plaintiff’s Lanham Act claim (Count III) shall proceed;

It is so **ORDERED**.

SIGNED at Galveston, Texas, this 6th day of September, 2018.

  
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George C. Hanks Jr.  
United States District Judge